

**FILED**

NOV 14 2005  
*[Signature]*

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE

**E-FILED**

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8 Counsel for Defendant JAMES LAUTERMILCH

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10 IN THE UNITED STATES DISTRICT COURT  
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA

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UNITED STATES OF AMERICA,	)	No. CR 05-00626 JW (RS)
vs.	)	RS
JAMES LAUTERMILCH,	)	STIPULATION AND [PROPOSED] PROTECTIVE ORDER RE: DISCOVERY OF CHILD PORNOGRAPHY
Defendant.	)	

16 James Lautermilch is charged with one count of Transportation of Child Pornography, in  
17 violation of Title 18 U.S.C. § 2252A(a)(1) and one count of Possession of Child Pornography, in  
18 violation of Title 18 U.S.C. § 2252A(a)(5)(b). The United States will produce to counsel for the  
19 defendant in this case a mirror image of all digital media that was seized from the defendant,  
20 including digital media that contains images of child pornography. Pursuant to the child victim  
21 privacy provisions of 18 U.S.C. § 3509(d) and Federal Rule of Criminal Procedure 16, the parties  
22 stipulate, and the Court orders, that disclosure of these materials shall be subject to the following  
23 restrictions:

24 1. The United States will produce to counsel for the defendant in this case a mirror  
25 image of all digital media that was seized from the defendant, including digital media that

1 contains images of child pornography. To the extent that sexually explicit images depicting  
2 minors are not already captured in the digital media, the United States shall furnish hard copies  
3 of those images. The government may also choose to provide hard copies of images in order to  
4 facilitate settlement discussions even though those images were seized in digital form. The  
5 digital media and hard copy images of child pornography will hereinafter be referred to together  
6 as "restricted discovery." The term "restricted discovery" refers only to that portion of discovery  
7 that constitutes an image or images depicting a minor or minors engaged in sexually explicit  
8 conduct as defined in Title 18 United States Code § 2256(1) & (2). By entering into this  
9 stipulation, the defense does not concede that any items of discovery constitutes sexually explicit  
10 images depicting minors.

11       2. Except when being actively examined for the purpose of the preparation of the  
12 defense of defendant James Lautermilch, the restricted discovery produced by the United States  
13 to the Federal Public Defender shall be maintained in this federal judicial district in a locked,  
14 safe and secure drawer, cabinet, or safe which is accessible only to him, the Assistant Federal  
15 Public Defender assigned to the case, and the FPD Computer Systems Administrator.

16              The following individuals may examine the identified restricted discovery:

- 17              a. The Federal Public Defender and those permanent members of his staff who are  
18                      assisting him in the investigation and preparation of this case;  
19              b. The defendant with a member of the Federal Public Defender staff present.

20              No other person shall examine the identified restricted discovery, nor shall any copies be  
21              made of the identified restricted discovery without further order of this Court. Examination of  
22              the restricted discovery shall be done in a secure environment which will not expose the  
23              materials to other individuals not listed above or permitted to examine the restricted discovery by  
24              further order of the Court.

25        3. If The Federal Public Defender determines that, other than those individuals  
26              described above in paragraph 3, additional individuals or experts are needed to review the

1 material he must obtain a further order of the Court before allowing any other individual to  
2 review the material. Application for such order may be made *ex parte* and under seal.

3 4. The restricted discovery shall not leave the State of California without further  
4 order of the Court, the application for which may be made *ex parte* and under seal.

5 5. The restricted discovery shall not be transported to defense expert or anyone  
6 else, by way of the United States mail or other facility of interstate commerce without further  
7 order of the Court, the application for which may be made *ex parte* and under seal.

8 6. A copy of this order shall be maintained with the restricted discovery at all  
9 times.

10 7. No copies of any of the identified restricted discovery may be made without  
11 further court order. The prohibition on copying includes (1) printing out images onto paper or  
12 film and (2) duplicating the images in any digital format. This restriction in no way precludes the  
13 defense from copying discovery not identified as restricted discovery.

14 8. The computer from which the digital media will be accessed shall not be  
15 connected to the Internet or to any other computer network.

16 9. Any pleadings that include copies of any identified restricted discovery or  
17 reveals the identity of any alleged minor victims shall be filed under seal.

18 10. Within 10 court days of the judgment and sentencing hearing in this matter,  
19 all material provided to defense counsel pursuant to this Order, and all other authorized copies, if  
20 any, shall be returned to the United States. The United States shall destroy them. If the  
21 defendant believes that he must maintain the material for any reason related to appeal, defendant  
22 must seek authorization from the District Court within 10 days of sentencing and judgment in  
23 this matter.

24 11. All individuals who receive access to the materials produced by the  
25 government pursuant to this Order, prior to receiving access to the materials, shall sign a  
26 declaration acknowledging that they have reviewed the Order, that they understand its contents,

1 and that they agree to abide by the provisions within. The declaration shall further state clearly  
2 that the declarant understands that failure to abide by this Order may be punishable by contempt  
3 and other sanctions by this Court and by state or federal criminal charges for possession or  
4 dissemination of child pornography. Each such declaration shall be maintained by the office of  
5 the Federal Public Defender subject to further court order.

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I, Nicholas Peter Humy, declare under penalty of perjury that I possess a copy of  
8 Assistant United States Attorney, Susan Knight's holographic signature to this stipulation.  
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DATED: November 9, 2005

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IT IS SO STIPULATED

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DATED: November 9, 2005

*NICHOLAS PETER HUMY*  
-S-  
Assistant Federal Public Defender

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DATED: November 9, 2005

*NICHOLAS PETER HUMY*  
Assistant Federal Public Defender

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IT IS SO ORDERED:

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DATED: 11/14/05

*SUSAN KNIGHT*  
Assistant United States Attorney

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*R. Seeborg*  
HONORABLE RICHARD SEEBORG  
United States Magistrate Judge  
Northern District of California